

AWARD
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Names of Claimants

Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke,
Todd B. Burke, Jose J. Collado, Adela Christine Collado,
Charles K. Colvin, C&C Erection, Inc., Nancy Gordon,
Susan W. Hackney, Don H. Jones, Suzann S. Jones,
William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears,
Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears,
Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein,
and Shana L. Stein

vs.

Case Number: 09-06655
Hearing Site: Houston, Texas

Name of Respondent

Morgan Keegan & Company, Inc.

NATURE OF THE DISPUTE

Customers vs. Member

REPRESENTATION OF PARTIES

Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nancy Gordon, Susan W. Hackney, Don H. Jones, Suzann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein ("Claimants") were represented by Paul J. Dobrowski, Esq., Dobrowski, LLP, Houston, Texas.

Morgan Keegan & Company, Inc. ("Respondent") was represented by Stephen C. Carlin, Esq., Greenberg Traurig, LLP, Dallas, Texas.

CASE INFORMATION

The Amended Statement of Claim was filed on or about December 8, 2009. The Submission Agreement of Claimants, Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nancy Gordon, Susan W. Hackney, Don H. Jones, Suzann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears,



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Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein, was signed on or about April 7, 2009. The Second Amended Statement of Claim was filed on or about March 11, 2010.

Statements of Answer were filed by Respondent, Morgan Keegan & Company, Inc., on or about January 26, 2010. The Submission Agreement of Respondent, Morgan Keegan & Company, Inc., was signed on or about February 5, 2010.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; misrepresentations; statutory fraud; common law fraud; violations of the Texas Securities Act. The causes of action related to the recommendation and purchase of RMK High Income Fund, Inc., RMK Advantage Income Fund, Inc., RMK Multi-Sector High Income Fund, Inc., and RMK Strategic Income Fund, Inc. Claimants alleged that this arises out of a fraudulent scheme that induced Claimants to invest substantial retirement and trust funds into highly risky closed-end mutual funds managed and sold by Morgan Keegan that purchased illiquid mortgage-backed loans and collateralized debt obligations. Claimant alleged that the fraudulent sales scheme involved not only the initial purchase of the Funds' shares, but also induced investors into agreeing to automatically "reinvest" accrued dividends. Claimants alleged that due to the representations by Morgan Keegan and its affiliates that the Fund managers were making sound investment decisions and the assets of the Funds were secure, as a result, Claimants did not sell their shares and as a result lost most, or all, of their invested capital.

Unless specifically admitted in its Answers, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants failed to state a claim upon which relief can be granted; Claimants' claims are barred by the applicable statute of limitation, laches, and/or statutes of repose; all activity in the accounts were suitable for and consistent with Claimants' stated investment objectives; Claimants authorized, directed and ratified all of the transactions in the accounts; Claimants' claims are barred by the doctrines of due diligence, ratification, waiver, estoppel, contributory and/or comparative negligence, and assumption of risk; to the extent that Claimants alleged that Morgan Keegan had an ongoing duty to monitor Claimants' non-discretionary accounts, Claimants misstate the law; and Claimants cannot establish the requisite "scienter" on the part of Morgan Keegan.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$2,229,357.00
Exemplary/Punitive Damages	Unspecified

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Interest
Attorneys' Fees
Other Monetary Relief
Other Non-Monetary Relief

Unspecified
Unspecified
Unspecified
Specific Performance

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On or about November 11, 2009, the parties in FINRA Case No. 09-00683 filed an Agreed Order on Respondent's Motion to Sever Claims. The Panel in FINRA Case No. 09-00683 executed the Agreed Order on November 17, 2009. Specifically, Claimants', Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nancy Gordon, Susan W. Hackney, Don H. Jones, Suzann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein, claims were severed and they filed a new FINRA Case No. 09-06655.

On or about September 16, 2010, Claimants filed a Motion for Leave to File Third Amended Petition. On or about September 27, 2010, Respondent filed a Response to Claimants' Motion for Leave to File Third Amended Petition.

On or about September 17, 2010, Claimants filed a Motion to Direct the Appearance directed to Charles Maxwell and James Kelsoe. On or about September 28, 2010, Respondent filed a Response.

On or about September 21, 2010, Respondent filed a Motion to Exclude Irrelevant and Inadmissible Regulatory Materials. On or about October 1, 2010, Claimants filed a Response to Respondent's Motion to Exclude Irrelevant and Inadmissible Regulatory Materials. The Panel deferred ruling until the final hearing.

On or about September 22, 2010, Respondent filed a Motion for the Panel to Enter an Order for Equitable Division of Time at the Hearing. On or about September 23, 2010, Claimant filed a Response.

On or about September 28, 2010, Claimants filed a Motion to Allow Corrected Damages Summary. On or about October 5, 2010, Respondent filed a Response to Claimants' Motion to Allow Corrected Damages Summary.

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On or about October 5, 2010, Respondent filed a Motion for Leave to File and Motion to Exclude Improper Derivative Claims. On or about October 8, 2010, Claimants filed a Response in Opposition to Respondent's Motion to Exclude Improper Derivative Claims. The Panel deferred ruling until the final hearing.

On or about October 1, 2010, Respondent filed a Motion for Dismissal of Claims for Failure to Produce Ordered Discovery. On or about October 8, 2010, Claimants filed a Response to Respondent's Motion for Dismissal of Claimant for Failure to Produce Ordered Discovery. The Panel deferred ruling until the final hearing.

On or about October 6, 2010, Claimants filed a Motion to Take Notice of Prior Arbitration Award and Apply Collateral Estoppel. On or about October 8, 2010, Respondent filed a Response to Claimants' Motion to Take Notice of Prior Arbitration Award and Apply Collateral Estoppel. The Panel deferred ruling until the final hearing.

On or about October 6, 2010, the Panel held a pre-hearing call with the parties for oral arguments on pending Motions. The Panel issued an Order on or about October 7, 2010 that stated:

- The Panel denied Claimants' Motion for Leave to File a Third Amended Statement of Claim.
- The Panel granted Claimants' Motion to Direct the Appearance at Hearing of Witnesses Charles Maxwell and James Kelsoe.
- The Panel denied Respondent's Request that the Panel enter an Order for the Equitable Division of Time.
- The Panel granted Claimants' Motion to Allow Corrected Damages Summary, as Respondent withdrew its opposition.

At the final hearing, the following Motions, which were previously deferred, were determined by the Panel as follows:

- Respondent's Motion to Exclude Irrelevant and Inadmissible Regulatory Materials was carried with the case and the Motion was eventually overruled.
- Respondent's Motion for Leave to File and Motion to Exclude Improper Derivative Claims was denied.
- The Panel denied Respondent's Motion to Dismiss the claims of any Claimant who had not produced biographical information responsive to Respondents' requests. However the Panel ruled that the furnishing of such information was a pre-requisite to any Claimant testifying. Only those Claimants who did produce such information to Respondent would be allowed to testify.
- Claimants' Motion to Take Notice of Prior Arbitration Award and Apply Collateral Estoppel was denied.

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The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Claimants, Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nancy Gordon, Susan W. Hackney, Don H. Jones, Susann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein, are jointly and severally liable for and shall pay to Respondent, Morgan Keegan & Company, Inc., the sum of \$34,707.00 in costs;
- 3.) Claimants, Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nancy Gordon, Susan W. Hackney, Don H. Jones, Susann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein, are jointly and severally liable for and shall pay to Respondent, Morgan Keegan & Company, Inc., the sum of \$399,416.00 in attorneys' fees pursuant to Morgan Keegan Customer Agreement signed by all Claimants; and
- 4.) Any relief not specifically enumerated is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution will retain the non-refundable filing fee* for each claim:

Initial Claim filing fee = \$ 1,800.00

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**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Morgan Keegan & Company, Inc. is assessed the following:

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) Decision on discovery-related motion on the papers	
With one (1) arbitrator @ \$200.00	= \$ 200.00
<u>Respondent submitted one (1) discovery-related motion</u>	
Total Discovery-Related Motion Fees	= \$ 200.00

The Panel has assessed \$200.00 of the discovery-related motion fees jointly and severally to Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nancy Gordon, Susan W. Hackney, Don H. Jones, Suzann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each hearing session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Five (5) Pre-hearing sessions with Panel x \$1,200.00	= \$ 6,000.00
Pre-hearing conferences:	
June 1, 2010	1 session
June 15, 2010	1 session
October 6, 2010	1 session
October 21, 2010	1 session
November 18, 2010	1 session

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Thirteen (13) Hearing sessions x \$1,200.00		= \$15,600.00
Hearing Dates:	October 12, 2010	2 sessions
	October 13, 2010	3 sessions
	October 14, 2010	2 sessions
	October 15, 2010	2 sessions
	January 29, 2011	2 sessions
	January 30, 2011	2 sessions
<hr/> Total Hearing Session Fees		= \$21,600.00

The Panel has assessed \$10,800.00 of the hearing session fees jointly and severally to Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nancy Gordon, Susan W. Hackney, Don H. Jones, Suzann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein.

The Panel has assessed \$10,800.00 of the hearing session fees to Morgan Keegan & Company, Inc.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Raymond C. Kerr - Public Arbitrator, Presiding Chair

Thomas A. Martin - Public Arbitrator

Maurice J. Fallas - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

/s/ Raymond C. Kerr
 Raymond C. Kerr
 Public Arbitrator, Presiding Chair

March 9, 2011
 Signature Date

/s/ Thomas A. Martin
 Thomas A. Martin
 Public Arbitrator

March 9, 2011
 Signature Date

/s/ Maurice J. Fallas
 Maurice J. Fallas
 Non-Public Arbitrator

March 9, 2011
 Signature Date

March 9, 2011
 Date of Service (For FINRA office use only)

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Thirteen (13) Hearing sessions x \$1,200.00		= \$15,600.00
Hearing Dates:	October 12, 2010	2 sessions
	October 13, 2010	3 sessions
	October 14, 2010	2 sessions
	October 15, 2010	2 sessions
	January 29, 2011	2 sessions
	January 30, 2011	2 sessions
Total Hearing Session Fees		= \$21,600.00

The Panel has assessed \$10,800.00 of the hearing session fees jointly and severally to Richard R. Ariape, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nanoy Gordon, Susan W. Hackney, Don H. Jones, Suzann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein.

The Panel has assessed \$10,800.00 of the hearing session fees to Morgan Keegan & Company, Inc.

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ARBITRATION PANEL

Raymond C. Kerr - Public Arbitrator, Presiding Chair
 Thomas A. Martin - Public Arbitrator
 Maurice J. Fallas - Non-Public Arbitrator

Concurring Arbitrators' Signatures:


 Raymond C. Kerr
 Public Arbitrator, Presiding Chair

3/9/11
 Signature Date

 Thomas A. Martin
 Public Arbitrator

 Signature Date

 Maurice J. Fallas
 Non-Public Arbitrator

 Signature Date

 Date of Service (For FINRA office use only)

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Thirteen (13) Hearing sessions x \$1,200.00		= \$15,600.00
Hearing Dates:	October 12, 2010	2 sessions
	October 13, 2010	3 sessions
	October 14, 2010	2 sessions
	October 15, 2010	2 sessions
	January 29, 2011	2 sessions
	January 30, 2011	2 sessions
Total Hearing Session Fees		= \$21,600.00

The Panel has assessed \$10,800.00 of the hearing session fees jointly and severally to Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nancy Gordon, Susan W. Hackney, Don H. Jones, Suzann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein.

The Panel has assessed \$10,800.00 of the hearing session fees to Morgan Keegan & Company, Inc.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Raymond C. Kerr - Public Arbitrator, Presiding Chair
 Thomas A. Martin - Public Arbitrator
 Maurice J. Fallas - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

 Raymond C. Kerr
 Public Arbitrator, Presiding Chair

 Thomas A. Martin
 Public Arbitrator

 Maurice J. Fallas
 Non-Public Arbitrator

 Signature Date

 3-29-11
 Signature Date

 Signature Date

 Date of Service (For FINRA office use only)

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Thirteen (13) Hearing sessions x \$1,200.00		= \$15,600.00
Hearing Dates:	October 12, 2010	2 sessions
	October 13, 2010	3 sessions
	October 14, 2010	2 sessions
	October 15, 2010	2 sessions
	January 29, 2011	2 sessions
	January 30, 2011	2 sessions
Total Hearing Session Fees		= \$21,600.00

The Panel has assessed \$10,800.00 of the hearing session fees jointly and severally to Richard R. Arispe, Jimmy A. Burke, Peggy A. Burke, Todd B. Burke, Jose J. Collado, Adela Christine Collado, Charles K. Colvin, C&C Erection, Inc., Nancy Gordon, Susan W. Hackney, Don H. Jones, Suzann S. Jones, William A. Rhodes, Jr., Dawn Schuessler, Kenneth W. Sears, Kenneth W. Sears, Jr., Reine M. Sears, Daniel J. Sears, Kenneth W. Sears, III, Judy Strickland, Elizabeth Stein, and Shana L. Stein.

The Panel has assessed \$10,800.00 of the hearing session fees to Morgan Keegan & Company, Inc.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Raymond C. Kerr - Public Arbitrator, Presiding Chair
 Thomas A. Martin - Public Arbitrator
 Maurice J. Fallas - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

 Raymond C. Kerr
 Public Arbitrator, Presiding Chair

 Signature Date

 Thomas A. Martin
 Public Arbitrator

 Signature Date


 Maurice J. Fallas
 Non-Public Arbitrator

3/9/11

 Signature Date

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